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MARK A. LITMAN		EXAMINER		
MARK A. LITMAN & ASSOCIATES, P.A.		HOEL, MATTHEW D		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/660,963

Applicant(s)

O'HALLORAN, TERRY

Examiner

Matthew D. Hoel

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1 to 3, 7, 8, 11 to 14, and 17 are rejected under 35 U.S.C. 103(a) as unpatentable over Hagiwara (U.S. patent 4,805,907 A) in view of Acres, et al. (U.S. patent 5,876,284 A).
4. Regarding at least claims 1, 7, 12, and 17, Hagiwara discloses a processor that determines the result of a slot machine game having actual or simulated reels, Fig 1 & Col 3 Lines 28-31; at processor controlled times or time intervals (i.e. every 50 seconds), Col 2 Lines 52-61, a plurality of terminals (subordinate machines) that are each physically separate from the main processor, Fig 1 Item 9a-c, Fig 2,

communicatively linked, Fig 1 Items 3, 4a-c,5; the outcome at each terminal is solely dependent on a single communal (common) result determined by the processor Col 3 Lines 28-31. All players' winnings are based on the single result displayed on the main display. Hagiwara discloses a processor that determines the result of a slot machine game having actual or simulated reels, Fig 1 & Col 3 Lines 28-31; at processor controlled times or time intervals (i.e. every 50 seconds), Col 2 Lines 52-61, a plurality of terminals (subordinate machines) that are each physically separate from the main processor, Fig 1 Item 9a-c, Fig 2, communicatively linked, Fig 1 Items 3, 4a-c,5; the outcome at each terminal is solely dependent on a single communal (common) result determined by the processor Col 3 Lines 28-31. All players' winnings are based on the single result displayed on the main display.

1. Regarding at least claim 7, Hagiwara discloses a processor that determines the result of a slot machine game having actual or simulated reels, Fig 1 & Col 3 Lines 28-31; at processor controlled times or time intervals (i.e. every 50 seconds), Col 2 Lines 52-61, a plurality of terminals (subordinate machines) that are each physically separate from the main processor, Fig 1 Item 9a-c, Fig 2, communicatively linked, Fig 1 Items 3, 4a-c,5; the outcome at each terminal is solely dependent on a single communal (common) result determined by the processor Col 3 Lines 28-31. All players' winnings are based on the single result displayed on the main display.

5. Regarding at least claim 11, Hagiwara discloses that players only make wagers at respective terminals 7a-c in figure 1, whether or not wagers have been made at all terminals they still display the communal result. Col 2 Lines 44-64. So the reels will

spin and stop regardless of the number of subordinate machines actively being wagered on; payments are based on wager at each individual terminal, Col 3 Lines 7-31.

6. Regarding at least claim 2, Hagiwara discloses that that coins will be paid out based on a preset payment rate Col 1 Lines 43-52 to each subordinate machine based on the bet placed at each machine and the single communal (common) result on the main display. Col 3 Lines 16-31.

7. Regarding at least claims 3, 8 and 13, Hagiwara discloses the use of at least one display coupled to a processor to display the communal result, Fig 1 item 6, Fig 2 Item 1.

8. Regarding at least claim 8, Hagiwara discloses the use of at least one display coupled to a processor to display the communal result, Fig 1 item 6, Fig 2 Item 1.

9. Regarding at least claim 11, Hagiwara discloses that players only make wagers at respective terminals 7a-c in figure 1, whether or not wagers have been made at all terminals they still display the communal result. Col 2 Lines 44-64. So the reels will spin and stop regardless of the number of subordinate machines actively being wagered on; payments are based on wager at each individual terminal, Col 3 Lines 7-31.

10. Regarding at least claim 14, Hagiwara discloses that each terminal, Fig 1 9a-c, has its own display, Fig 1 Items 7a-c, that displays the communal result, Col 2 Lines 3.

11. As to the new limitations of Claims 1, 7, 11, 12, and 17 not anticipated by Hagiwara with the limitation of the intervals being controlled solely by the processor, this is anticipated by Acres, et al. (U.S. patent 5,876,284 A; in Figs. 36-38, 39:61-42:33). This limitation is anticipated by '284 (item 610, Fig. 36 and 40:38-60). In this limitation,

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the length of the display mode is not determined by how much the player has bet. The applicants' invention as argued, but not as claimed, would merely keep the attract mode with repeated spins of the reels going, allowing a player or players to bet on the spins of the reels at any time. This would have been obvious to one of ordinary skill in the art at the time the invention was made. Hagiwara ('907), the main reference teaches a demonstration or attract mode in 2:43-50 in which the reels spins repeatedly until the player makes a bet. The modification of '907 with the above-cited limitation of '284 would result in a game in which the player can bet on the spins of the demonstration or attract mode at any time without any interruption to the spins of the reels ('284 teaches game starting after 30 or 50 seconds, 2:55-61). The advantage of this combination would be to provide a seamless crossover from the display mode to the attract mode once a player has bet on the spin of the reels. This would have the advantage of consistency between the game played and the attract mode.

12. Regarding the newly cited limitations of centrally determining the results at predetermined intervals without any player initiating a game, these limitations are anticipated by '284. Regarding predetermined intervals ('284, 36:5-12): "The other type of event can be referred to as a bonusing event. The floor controller checks to see whether the event is a bonusing event in step 540. The bonusing events can also be triggered by the time of day. For example, the bonusing event may be triggered from midnight to 4:00 a.m. on weekdays. These bonusing periods can be specified in the data base." Regarding the lack of initiation by the player ('284, 36:54-63): "Another reconfiguration command permits the system to implement so-called "automatic mystery

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jackpots." These "mystery" jackpots allow a machine to payout a mystery jackpot even when a jackpot was not won. Instead, the reconfiguration command can specify that the mystery jackpot is to occur after a certain number of coins, a certain number of handle pulls, or a variety of other conditions specified by the reconfiguration commands. These mystery bonuses provide the casino with another way to induce additional gaming activity." '284 can thus be programmed to provide awards that require no player initiation at predetermined intervals. This is simply a central-determination lottery applied to a slot machine format. As in a lottery, the results are drawn or randomly generated and centrally distributed or announced to players. The lottery happens on a periodic basis with or without the initiation of the players. The results are centrally distributed to the player, and the player wins or not depending on whether or not the player bet on that drawing, as in a lottery. The examiner points to Scarne to illustrate these steps. The applicant is simply taking a lottery-style random number generation with no player initiation with a predetermined period and distributing the results to the player over a network in a slot format. The slot format is not at issue, the lottery-style random number generation with no initiation with a predetermined period and distributing the results to a player is what is at issue. Quoting from Page 17 of KSR: "A person of ordinary skill is also a person of ordinary creativity, not an automaton... When there is a need or market pressure to solve problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.

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In that instance the fact that a combination was obvious to try might show that it was obvious under § 103." The manner, timing, and distribution of the gaming result results in the claimed game being obvious. '907, to begin with, discusses a demonstration mode of rotating slot reels that rotate with no player input (2:44-49). The examiner also notes the analogy in which the player selects a group of indicia in a slot game (a payline) that is compared to a randomly generated result (wheels randomly stopping on payline) which is analogous to a lottery in which a player selects a group of indicia (group of numbers) and compares the to randomly drawn numbers drawn by a lottery authority. Hagiwara's slot network is similar to a lottery authority in that the randomly generated indicia are centrally randomly generated. The examiner thus finds that the predetermined period not requiring player initiation of '284 is thus a logical extension of Hagiwara and that the combination of Hagiwara and '284 has the effect and advantage of simply presenting lottery results in a different, slot format that the players are familiar with.

13. Claims 4-6, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagiwara (US Patent 4,805,907), in view of Bursill (US Patent Publication 2006/0052149).

14. The rejections in view of Hagiwara have been discussed above. Hagiwara discloses assisting the players at each terminal by demonstrating the game, how to play and place wagers. Hagiwara does not explicitly disclose displaying remaining time interval or displaying selected data such as previous communal results.

15. Bursill discloses a different communal game of chance, roulette. In one embodiment of the Bursill players remotely join in a live roulette game. They are provided with a display which shows time remaining until next spin as well as the result of previous spins. Page 3, Paragraph 0046. It further discloses that after the time remaining is up the wheel is set spinning and the clock is reset to wait for the next communal result. Page 3 Paragraph 0048. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the remaining time function and result history function of the Bursill communal game of chance with the Hagiwara game of chance. Bursill discloses that a timing function is used to assist the players with betting. By combining the timing function with the Hagiwara game of chance the players would know how much longer they have to bet as well as know the time remaining to get their co-players to bet furthering the excitement and feeling of togetherness that Hagiwara talks about. Bursill also discloses that game history assists players. By combining the game history function with Hagiwara the players would be able to better decide whether they wanted to play on these machines as well as how much to bet.

Response to Arguments

16. Applicant's arguments filed 12-19-2007 have been fully considered but they are not persuasive. Applicant's first argument is that Hagiwara's games are initiated by coins. Whether or not this is true, it doesn't change the fact that the CPU/Processor in Hagiwara is what is determining the result and at time interval. Secondly Applicant

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argues that the CPU in the terminal is determining the outcome, making other terminals appear to be dependent upon another terminal and similarly that a player must be using a main machine in order for satellite machines to be engaged. Hagiwara teaches that there is a main CPU/Display/Machine, Fig 1 Item 1, the machine determines one single result and sends that result to the subordinate machine. The subordinate machines are not determining anything other than the individual payout based on individual betting. No player is required to be at the Main machine for the system to operate. On the contrary Hagiwara discloses that all players make wagers at the subordinate machines or terminals.

17. The applicants appear to believe that the system of Hagiwara in which the players are able to bet on any spin of the reels in a game in which the reels are spun at processor-controlled intervals, the intervals not being based on the amount or timing of a player's wager, represents a novel, non-obvious step. Having a spin time of a reel determined by processor control does not preclude the spin being initiated by a wager time or a wager amount as outlined in '907 Col. 2. Having the spin time of the reel being determined only by the processor as newly cited in Claims 7 and 11 still is not inventive as outlined above and also in regard to *in re Venner* (MPEP 2144.04 (III), 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958), automating a manual activity). The applicants' invention from the claim language is merely an attract mode of spinning reels in which the player is able to bet on the spinning of the spinning reels at any time, the spinning or timing of the reels not being dependent on the player's wager. Controlling the spinning of the reels by strictly processor control is obvious for the

reasons outlined above. Regarding the newly cited limitations of centrally determining the results at predetermined intervals without any player initiating a game, these limitations are anticipated by '284. Regarding predetermined intervals ('284, 36:5-12): "The other type of event can be referred to as a bonusing event. The floor controller checks to see whether the event is a bonusing event in step 540. The bonusing events can also be triggered by the time of day. For example, the bonusing event may be triggered from midnight to 4:00 a.m. on weekdays. These bonusing periods can be specified in the data base." Regarding the lack of initiation by the player ('284, 36:54-63): "Another reconfiguration command permits the system to implement so-called "automatic mystery jackpots." These "mystery" jackpots allow a machine to payout a mystery jackpot even when a jackpot was not won. Instead, the reconfiguration command can specify that the mystery jackpot is to occur after a certain number of coins, a certain number of handle pulls, or a variety of other conditions specified by the reconfiguration commands. These mystery bonuses provide the casino with another way to induce additional gaming activity." '284 can thus be programmed to provide awards that require no player initiation at predetermined intervals. This is simply a central-determination lottery applied to a slot machine format. As in a lottery, the results are drawn or randomly generated and centrally distributed or announced to players. The lottery happens on a periodic basis with or without the initiation of the players. The results are centrally distributed to the player, and the player wins or not depending on whether or not the player bet on that drawing, as in a lottery. The examiner points to Scarne to illustrate these steps. The applicant is simply taking a lottery-style random

number generation with no player initiation with a predetermined period and distributing the results to the player over a network in a slot format. The slot format is not at issue, the lottery-style random number generation with no initiation with a predetermined period and distributing the results to a player is what is at issue. Quoting from Page 17 of KSR: "A person of ordinary skill is also a person of ordinary creativity, not an automaton... When there is a need or market pressure to solve problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under § 103." The manner, timing, and distribution of the gaming result results in the claimed game being obvious. '907, to begin with, discusses a demonstration mode of rotating slot reels that rotate with no player input (2:44-49). The examiner also notes the analogy in which the player selects a group of indicia in a slot game (a payline) that is compared to a randomly generated result (wheels randomly stopping on payline) which is analogous to a lottery in which a player selects a group of indicia (group of numbers) and compares the to randomly drawn numbers drawn by a lottery authority. Hagiwara's slot network is similar to a lottery authority in that the randomly generated indicia are centrally randomly generated. The examiner thus finds that the predetermined period not requiring player initiation of '284 is thus a logical extension of Hagiwara and that the combination of Hagiwara and '284 has the effect and advantage of simply presenting lottery results in a different, slot format that the

players are familiar with. The examiner respectfully disagrees with the applicant as to the claims' condition for allowance.

Citation of Pertinent Prior Art

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. "The Complete Guide to Gambling," by John Scarne, 1961, Harper Collins, chapters on lotteries discuss the central determination and periodic (such as weekly) drawings of lotteries.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

4. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571)272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.
6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Matthew D. Hoel
Patent Examiner
AU 3714

/Robert E. Pezzuto/
Supervisory Patent Examiner
Art Unit 3714

/M. D. H./
Examiner, Art Unit 3714